



UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 10

In re Application of
Brett T. Hannigan *et al*
Application No. 09/709,255
Filed: November 8, 2000
Attorney Docket No. P0243

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: DECISION ON PETITION
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This is a decision on the petition filed by facsimile transmission on February 24, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure as a result of petitioner's failure to file a timely and proper reply to the final Office action dated June 10, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners in fact timely filed both a notice of appeal and the fee therefor on September 12, 2003, as well as an appeal brief and the fee therefor on December 16, 2003.

Petitioners have supported these allegations by including copies of the notice of appeal and a filing receipt therefor showing that a notice of appeal which included a fee authorization was received in the Office on September 12, 2003, as well as copies of an appeal brief which included a fee authorization and a filing receipt therefore showing that the appeal brief was received in the Office on December 16, 2003. It is noted that the notice of appeal was timely filed by reason of a 37 CFR 1.8(a) certificate of mailing dated September 10, 2003 affixed thereto. It is further noted that the appeal brief was timely filed by reason of the concurrent filing of a petition for a one month extension of time, the extension fee, and a 37 CFR 1.8(a) certificate of mailing dated December 11, 2003 affixed thereto. Based upon this evidence, it is clear that this application is not abandoned. In addition, Office financial records confirm receipt of the notice of appeal fee, the fee for filing the appeal brief, and the fee for the extension of time.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to enter the notice of appeal, appeal brief, and extension of time described above. In addition, the Head Supervisory Applications Examiner will have two additional copies of the appeal brief made. Thereafter, the application will be forwarded to the examiner for immediate action on the appeal brief filed on December 16, 2003, certificate of mailing date December 11, 2003.

PETITION GRANTED.

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